

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

WILLIAM H. EVANS, JR.,

Plaintiff,

vs.

**Case No.: 2:15-cv-769
JUDGE SMITH
Magistrate Judge Kemp**

**SCIOTO COUNTY COMMON PLEAS
COURT AND JUDGE'S OF GENERAL,
DOMESTIC & PROBATE DIVISIONS, *et al.*,**

Defendants.

ORDER

On June 23, 2015, the United States Magistrate Judge issued a *Report and Recommendation* recommending that the Court both certify that the appeal is not taken in good faith and deny the motion because, as a prisoner subject to the “three strikes” rule, Mr. Evans is not entitled to proceed on appeal without paying the filing fee. (See *Report and Recommendation*, Doc. 15). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff’s Objection and Supplement to his Objection to the Magistrate Judge’s *Report and Recommendation*, as well as his declaration of proof of his medical issues. (See Docs. 16-18). The Court will consider the matter *de novo*. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff’s Objection challenges the Magistrate Judge’s and this Court’s authority to enter the Order on May 29, 2015 and June 23, 2015, following his Notice of Appeal. However, the Magistrate Judge correctly concluded that this Court’s April 20, 2015 Order was not a final

appealable order. Therefore, Plaintiff's notice of appeal is premature. Therefore, for the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**. Plaintiff's Notice of Appeal (Doc. 12) is not taken in good faith and Plaintiff's Motion for Leave to Appeal in forma pauperis (Doc. 11) is hereby denied.

Additionally, pursuant to this Court's Order issued on June 22, 2015 and filed on June 23, 2015, Plaintiff was given thirty days to pay the entire \$400.00 filing fee. Plaintiff has failed to do so. Therefore, this case is hereby dismissed.

The Clerk shall remove Documents 11 and 15 from the Court's pending motions list and shall close this case.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT